

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
**CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS****DO NOT WRITE IN THIS SPACE**Case
29-CB-274175Date Filed
03/15/2021**INSTRUCTIONS:** File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.**1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT**

a. Name IATSE Local 52 Motion Picture Studio Mechanics	b. Union Representative to contact (b) (6), (b) (7)(C)
c. Address (Street, city, state, and ZIP code) 19-02 Steinway St. Astoria, NY 11105	d. Telephone (718) 906-9440
	e. Cell Phone (b) (6), (b) (7)(C)
	f. Fax No. (718) 777-1820
g. e-mail (b) (6), (b) (7)(C); ialocal52.org	

h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of Section 8(b)(1)(A) and (2) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.

2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices)

Since about six (6) months from the filing of this charge, IATSE Local 52 has attempted to cause and has caused Employers CMS Productions, Missing Pieces, O Positive LLC, Piro, Inc, and Spare Parts, Inc., and other employers to discriminatorily fail to employ employees because of their status as non-union members.

3. Name of Employer CMS Productions, Missing Pieces, O Positive LLC, Piro Inc, and Spare Parts Inc.	4a. Telephone see attached	b. Cell Phone	c. Fax No.
	d. e-mail see attached		

5. Location of plant involved (street, city, state and ZIP code) See attached	6. Employer representative to contact See attached
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7. Type of establishment (factory, mine, wholesaler, etc.) Commercial production companies	8. Identify principal product or service Motion picture commercial production	9. Number of workers employed 100
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10. Full name of party filing charge (b) (6), (b) (7)(C)

11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)	11a. Telephone (b) (6), (b) (7)(C)	b. Cell Phone	c. Fax No.
	d. e-mail (b) (6), (b) (7)(C)		

12. DECLARATION I declare that I have read the above charge and that the statements (b) (6), (b) (7)(C) to the best of my knowledge and belief. (b) (6), (b) (7)(C) (signature) _____ (Print/type name and title or office if any)		Telephone (b) (6), (b) (7)(C)
		Cell Phone (b) (6), (b) (7)(C)
		Fax No.
Address (b) (6), (b) (7)(C) Date March 15, 2021		e-mail (b) (6), (b) (7)(C)

**WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT**

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA) 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

- **CMS Productions**
4223 Glencoe Avenue
Marina Del Rey, CA 90292
(424) 228-4262 main
(424) 228-4346 fax
tony@cmsproductions.com
Tony Low, President

- **Missing Pieces [sic]**
836 Manhattan Ave.
Brooklyn, NY 11222
646.290.7931 main

- **O Positive, LLC**
48 W 25th St, New York, NY 10010
(212) 557-7000 main
(212) 557-7070 fax
marc@o-pos.com
Marc Grill, Executive Producer

- **Piro, Inc.**
170 Varick Street
10th Floor, Suite 1002
New York, NY 10013
(212) 234-0600 main
[tim@ WeArePiro.com](mailto:tim@WeArePiro.com)
Tim Piper, Founding Partner

- **Spare Parts, Inc. % Moving Parts, Inc.**
4111 W. Alameda Avenue
2nd Flr.
Burbank, CA 91505
(818) 557-0237
vanburensmail@yahoo.com
Matt van Buren, Co-President



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Agency Website: www.nlr.gov
Telephone: (718)330-7713
Fax: (718)330-7579



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March 17, 2021

(b) (6), (b) (7)(C)

IATSE Local 52 Motion Picture Studio Mechanics
19-02 Steinway St
Astoria, NY 11105

Re: IATSE Local 52 Motion Picture Studio
Mechanics
Case 29-CB-274175

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney JOHN B. MICKLEY whose telephone number is (718)765-6211. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing Form NLRB-4701, Notice of Appearance. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not

enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

Further, the Freedom of Information Act may require that we disclose position statements or evidence in closed cases upon request, unless an exemption applies, such as those protecting confidential financial information or personal privacy interests.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Correspondence: All documents submitted to the Region regarding your case MUST be filed through the Agency's website, www.nlrb.gov. This includes all formal pleadings, briefs, as well as affidavits, documentary evidence, and position statements. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format).

If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive

March 17, 2021

correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King", written in a cursive style.

KATHY DREW-KING
Regional Director

Enclosure: Copy of Charge

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

**IATSE LOCAL 52 MOTION PICTURE STUDIO
MECHANICS**

Charged Party

and

(b) (6), (b) (7)(C)

Charging Party

Case 29-CB-274175

AFFIDAVIT OF SERVICE OF CHARGE AGAINST LABOR ORGANIZATION

I, the undersigned employee of the National Labor Relations Board, state under oath that on March 17, 2021, I served the above-entitled document(s) by post-paid **regular mail and email** upon the following person, addressed to them at the following address:

(b) (6), (b) (7)(C)

IATSE Local 52 Motion Picture Studio

Mechanics

19-02 Steinway St

Astoria, NY 11105

Email: **(b) (6), (b) (7)(C)**ialocal52.org

March 17, 2021

Date

Sharon Marfan, Designated Agent of
NLRB

Name

/s/ Sharon Marfan

Signature



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

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March 17, 2021

(b) (6), (b) (7)(C)

Re: IATSE Local 52 Motion Picture Studio
Mechanics
Case 29-CB-274175

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on March 15, 2021 has been docketed as case number 29-CB-274175. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney JOHN B. MICKLEY whose telephone number is (718)765-6211. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

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If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge. If you cannot e-file your documents, you must provide a statement explaining why you do not have access to the means for filing electronically or why filing electronically would impose an undue burden.

In addition, this Region will be issuing case-related correspondence and documents, including complaints, compliance specifications, dismissal letters, deferral letters, and withdrawal letters, electronically to the email address you provide. Please ensure that you receive important case-related correspondence, please ensure that the Board Agent assigned to your case has your preferred email address. These steps will ensure that you receive correspondence faster and at a significantly lower cost to the taxpayer. If there is some reason you are unable to receive correspondence via email, please contact the agent assigned to your case to discuss the circumstances that prevent you from using email.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King". The signature is fluid and cursive, with the first name "Kathy" being more prominent and the last name "Drew-King" following in a similar style.

KATHY DREW-KING
Regional Director



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NATIONAL LABOR RELATIONS BOARD

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Suite 5100
Brooklyn, NY 11201-3838

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Fax: (718)330-7579



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March 17, 2021

Tony Low, President
CMS Productions
4223 Glencoe Avenue
Marina Del Rey, CA 90292

M ss ng P eces [sic]
836 Manhattan Avenue
Brooklyn, NY 11222

Marc Grill, Executive Producer
O Positive, LLC
48 W 25th Street
New York, NY 10010

Tim Piper, Founding Partner
Piro, Inc.
170 Varick Street
10th Floor, Suite 1002
New York, NY 10013

Matt Van Buren, Co-President
Spare Parts, Inc. c/o Moving Parts, Inc.
4111 W Alameda Avenue
2nd Floor
Burbank, CA 91505

Re: IATSE Local 52 Motion Picture Studio
Mechanics
Case 29-CB-274175

Dear All:

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Attorney JOHN B. MICKLEY whose telephone number is (718)765-6211. If this Board agent is not available, you may contact Supervisory Attorney TARA O'ROURKE whose telephone number is (718)765-6213.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor requests to limit our use of position statements or evidence. Specifically, any material you submit may be introduced as evidence at a hearing before an administrative law judge regardless of claims of confidentiality. However, certain evidence produced at a hearing may be protected from public disclosure by demonstrated claims of confidentiality.

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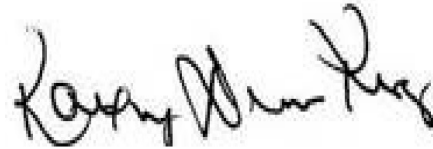
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We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

March 17, 2021

Very truly yours,

A handwritten signature in black ink, appearing to read "Kathy Drew-King". The signature is fluid and cursive, with the first name "Kathy" being more prominent than the last name "Drew-King".

KATHY DREW-KING
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

QUESTIONNAIRE ON COMMERCE INFORMATION

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME	CASE NUMBER 29-CB-274175
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1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION OR FORMATION	B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES
--	--

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7A. PRINCIPAL LOCATION:

7B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. TOTAL:

B. AT THE ADDRESS INVOLVED IN THIS MATTER:

9. DURING THE MOST RECENT (Check the appropriate box): ☐ CALENDAR ☐ 12 MONTHS or ☐ FISCAL YEAR (FY DATES)

	YES	NO
A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value. \$		
B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided. \$		
C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$		
D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$		
E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$		
G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$		
H. Gross Revenues from all sales or performance of services (Check the largest amount) <input type="checkbox"/> \$100,000 <input type="checkbox"/> \$250,000 <input type="checkbox"/> \$500,000 <input type="checkbox"/> \$1,000,000 or more If less than \$100,000, indicate amount.		
I. Did you begin operations within the last 12 months? If yes, specify date: _____		

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME	TITLE	E-MAIL ADDRESS	TEL. NUMBER
------	-------	----------------	-------------

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)	SIGNATURE	E-MAIL ADDRESS	DATE
--------------------------------	-----------	----------------	------

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

IATSE Local 52 Motion Picture Studio Mechanics

and

(b) (6), (b) (7)(C)

CASE 29-CB-274175

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

IATSE Local 52 Motion Picture Studio Mechanics

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Nicholas J. Johnson

MAILING ADDRESS: Spivak Lipton LLP, 1700 Broadway, 21st Floor, New York, NY 10019

E-MAIL ADDRESS: njohnson@spivaklipton.com

OFFICE TELEPHONE NUMBER: 212-765-2100

CELL PHONE NUMBER: _____ FAX: _____

SIGNATURE: _____

(Please sign in ink.)

DATE: 3-25-21

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY, A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

**MOTION PICTURE STUDIO MECHANICS,
LOCAL 52, INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES**

And

**Case Nos. 29-CB-274175 and
29-CB-288742**

(b) (6), (b) (7)(C) an Individual

And

CMS PRODUCTIONS AND SMUGGLER, INC.

**ORDER CONSOLIDATION CASES, CONSOLIDATED COMPLAINT
AND NOTICE OF HEARING**

Pursuant to Section 102.33 of the Rules and Regulations of the National Labor Relations Board, (the Board), and to avoid unnecessary costs or delay, IT IS ORDERED THAT the charge filed in Case No. 29-CB-274175 filed by (b) (6), (b) (7)(C) an individual (Charging Party) be consolidated with the charge the filed by the Charging Party in Case No. 29-CB-288742.

This Consolidated Complaint and Notice of Hearing is based on charges filed by the Charging Party. It is issued pursuant to Section 10(b) of the National Labor Relations Act (the Act), 29 U.S.C. § 151 et seq., and Section 102.15 of the Rules and Regulations of the National Labor Relations Board (the Board) and alleges that Motion Picture Studio Mechanics, Local 52, International Alliance of Theatrical Stage Employees (Respondent or Union) has violated the Act as described below.

1. The charge in Case No. 29-CB-274175 was filed by the Charging Party on March 15, 2021, and a copy was served on Respondent by U.S. mail on March 17, 2021.

2. The charge in Case No. 29-CB-288742 was filed by the Charging Party on January 10, 2022, and a copy was served on Respondent by U.S. mail on January 11, 2022.

3. At all material times, Respondent has been a labor organization within the meaning of Section 2(5) of the Act.

4. (a) At all material times, Corporate Management Solutions, Inc. a/k/a CMS Productions (Employer CMS) has been a corporation with an office and place of business located in Marina Del Ray, California, and has been engaged in the business of filmed entertainment production services.

(b) In conducting its operations during the 12-month period ending April 1, 2021, Employer CMS performed services valued in excess of \$50,000 directly for customers outside of the state of California, including for customers in the State of New York.

(c) At all material times, Employer CMS has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

5. (a) At all material times, Smuggler, Inc., (Employer Smuggler) has been a corporation with an office and place of business located in New York, New York, and has been engaged in the business of film production and filmmaking.

(b) In conducting its operations during the 12-month period ending March 29, 2021, Employer Smuggler performed services valued in excess of \$50,000 directly for customers outside of the State of New York.

(c) At all material times, Employer Smuggler has been an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act.

6. At all material times, the following named individuals held the positions opposite their names and have been agents of Respondent within the meaning of Section 2(13) of the Act:

(b) (6), (b) (7)(C)

-

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

-

(b) (6), (b) (7)(C)

7. At all material times, Respondent has maintained and enforced the following unwritten rules with Employer CMS, Employer Smuggler, and other employers:

- (a) Employees who are members of Respondent may apply for work directly with employers or employers' hiring agents.
- (b) Employees who are not members of Respondent, also known as "permits" or "applicants," may not apply for work with Union-represented employers or employers' hiring agents, and instead must only obtain work on Union-represented productions through Respondent.
- (c) Respondent's members with hiring authority may not hire nonmember "permits" or "applicants" without the Union's approval.
- (d) Respondent's members with hiring authority must exhaust all possible members before hiring nonmembers through the Union.
- (e) Employers covered by Respondent's collective-bargaining agreements may not hire nonmember "permits" or "applicants" without Respondent's prior approval.
- (f) If a member of Respondent is available to work, that member may "bump" a nonmember "permit" or "applicant" off an employer's production because of the nonmember's lack of membership with Respondent.

8. On or about October 24, 2021, at a general membership meeting of Respondent's members, Respondent's (b) (6), (b) (7)(C) threatened the membership with internal union discipline if they hire nonmembers without permission of the Union.

9. By the conduct described above in Paragraphs 7 and 8 Respondent has caused and attempted to cause employers to terminate and refuse to hire employees because of their status as non-Union members.

10. By the conduct described above in Paragraphs 7, 8, and 9, Respondent has been restraining and coercing employees in the exercise of the rights guaranteed in Section 7 of the Act, in violation of Section 8(b)(1)(A) of the Act.

11. By the conduct described above in Paragraphs 7, 8, and 9, Respondent has been attempting to cause and causing employers to discriminate against employees in violation of Section 8(a)(3) of the Act, in violation of Section 8(b)(2) of the Act.

12. Respondent's unfair labor practices described above affect commerce within the meaning of Section 2(6) and 2(7) of the Act.

13. As part of the remedy for the unfair labor practices described above, the General Counsel seeks an Order:

- (a) Requiring that the Notice be read to members by Respondent or a Board Agent during one of its regularly scheduled membership meetings;
- (b) Requiring that Respondent send the Notice to all members, nonmembers, and Union-represented employers by mail, email, and/or text message; and
- (c) Requiring that the Board conduct a training for Respondent's members about the provisions in the Notice.

ANSWER REQUIREMENT

Respondent is notified that, pursuant to Sections 102.20 and 102.21 of the Board's Rules and Regulations, it must file an answer to the Consolidated Complaint. The answer must be

received by this office on or before June 3, 2022, or postmarked on or before June 2, 2022.

Respondent also must serve a copy of the answer on each of the other parties.

The answer must be filed electronically through the Agency's website. To file electronically, go to www.nlr.gov, click on **E-File Documents**, enter the NLRB Case Number, and follow the detailed instructions. Responsibility for the receipt and usability of the answer rests exclusively upon the sender. Unless notification on the Agency's website informs users that the Agency's E-Filing system is officially determined to be in technical failure because it is unable to receive documents for a continuous period of more than 2 hours after 12:00 noon (Eastern Time) on the due date for filing, a failure to timely file the answer will not be excused on the basis that the transmission could not be accomplished because the Agency's website was off-line or unavailable for some other reason. The Board's Rules and Regulations require that an answer be signed by counsel or non-attorney representative for represented parties or by the party if not represented. See Section 102.21. If the answer being filed electronically is a pdf document containing the required signature, no paper copies of the answer need to be transmitted to the Regional Office. However, if the electronic version of an answer to a complaint is not a pdf file containing the required signature, then the E-filing rules require that such answer containing the required signature continue to be submitted to the Regional Office by traditional means within three (3) business days after the date of electronic filing. Service of the answer on each of the other parties must still be accomplished by means allowed under the Board's Rules and Regulations. The answer may not be filed by facsimile transmission. If no answer is filed, or if an answer is filed untimely, the Board may find, pursuant to a Motion for Default Judgment, that the allegations in the Consolidated Complaint are true.

Any request for an extension of time to file an Answer must be filed by the close of

business on June 3, 2022. The request must be in writing and addressed to the Regional Director of Region 29.

NOTICE OF HEARING

PLEASE TAKE NOTICE THAT on September 7, 2022, and on consecutive days thereafter until concluded, at 10:00 a.m. at a fifth-floor hearing room at Two MetroTech Center, Brooklyn, NY, or via videoconference, to be determined by the Administrative Law Judge, a hearing will be conducted before an administrative law judge of the National Labor Relations Board. At the hearing, Respondent and any other party to this proceeding have the right to appear and present testimony regarding the allegations in this complaint. The procedures to be followed at the hearing are described in the attached Form NLRB-4668. The procedure to request a postponement of the hearing is described in the attached Form NLRB-4338.

Dated: May 20, 2022, at Brooklyn, New York



KATHY DREW KING
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Attachments

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
NOTICE

Case 29-CB-274175 and
29-CB-288742

The issuance of the notice of formal hearing in this case does not mean that the matter cannot be disposed of by agreement of the parties. On the contrary, it is the policy of this office to encourage voluntary adjustments. The examiner or attorney assigned to the case will be pleased to receive and to act promptly upon your suggestions or comments to this end.

An agreement between the parties, approved by the Regional Director, would serve to cancel the hearing. However, unless otherwise specifically ordered, the hearing will be held at the date, hour, and place indicated. Postponements ***will not be granted*** unless good and sufficient grounds are shown ***and*** the following requirements are met:

- (1) The request must be in writing. An original and two copies must be filed with the Regional Director when appropriate under 29 CFR 102.16(a) or with the Division of Judges when appropriate under 29 CFR 102.16(b).
- (2) Grounds must be set forth in ***detail***;
- (3) Alternative dates for any rescheduled hearing must be given;
- (4) The positions of all other parties must be ascertained in advance by the requesting party and set forth in the request; and
- (5) Copies must be simultaneously served on all other parties (listed below), and that fact must be noted on the request.

Except under the most extreme conditions, no request for postponement will be granted during the three days immediately preceding the date of hearing.

(b) (6), (b) (7)(C)

IASTE Local 52 Motion Picture Studio
Mechanics
19-02 Steinway St
Astoria, NY 11105

Tony Low , President
CMS Productions
4223 Glencoe Avenue
Marina Del Rey, CA 90292

Nicholas J. Johnson , Esq.
1700 Broadway
21st Floor
New York, NY 10019

Robert L. Sacks , Esq.
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
11th Floor
New York, NY 10105

(b) (6), (b) (7)(C)

M ss ng P eces [sic]
836 Manhattan Avenue
Brooklyn, NY 11222

Marc Grill , Executive Producer
O Positive, LLC
48 W 25th Street
New York, NY 10010

Tim Piper , Founding Partner
Piro, Inc.
170 Varick Street
10th Floor, Suite 1002
New York, NY 10013

Matt Van Buren , Co-President
Spare Parts, Inc. c/o Moving Parts, Inc.
120 Bowen Loop*
Chandler, AZ 85226

Procedures in NLRB Unfair Labor Practice Hearings

The attached complaint has scheduled a hearing that will be conducted by an administrative law judge (ALJ) of the National Labor Relations Board who will be an independent, impartial finder of facts and applicable law. **You may be represented at this hearing by an attorney or other representative.** If you are not currently represented by an attorney, and wish to have one represent you at the hearing, you should make such arrangements as soon as possible. A more complete description of the hearing process and the ALJ's role may be found at Sections 102.34, 102.35, and 102.45 of the Board's Rules and Regulations. The Board's Rules and regulations are available at the following link: www.nlr.gov/sites/default/files/attachments/basic-page/node-1717/rules_and_regs_part_102.pdf.

The NLRB allows you to file certain documents electronically and you are encouraged to do so because it ensures that your government resources are used efficiently. To e-file go to the NLRB's website at www.nlr.gov, click on "e-file documents," enter the 10-digit case number on the complaint (the first number if there is more than one), and follow the prompts. You will receive a confirmation number and an e-mail notification that the documents were successfully filed.

Although this matter is set for trial, this does not mean that this matter cannot be resolved through a settlement agreement. The NLRB recognizes that adjustments or settlements consistent with the policies of the National Labor Relations Act reduce government expenditures and promote amity in labor relations and encourages the parties to engage in settlement efforts.

I. BEFORE THE HEARING

The rules pertaining to the Board's pre-hearing procedures, including rules concerning filing an answer, requesting a postponement, filing other motions, and obtaining subpoenas to compel the attendance of witnesses and production of documents from other parties, may be found at Sections 102.20 through 102.32 of the Board's Rules and Regulations. In addition, you should be aware of the following:

- **Special Needs:** If you or any of the witnesses you wish to have testify at the hearing have special needs and require auxiliary aids to participate in the hearing, you should notify the Regional Director as soon as possible and request the necessary assistance. Assistance will be provided to persons who have handicaps falling within the provisions of Section 504 of the Rehabilitation Act of 1973, as amended, and 29 C.F.R. 100.603.
- **Pre-hearing Conference:** One or more weeks before the hearing, the ALJ may conduct a telephonic prehearing conference with the parties. During the conference, the ALJ will explore whether the case may be settled, discuss the issues to be litigated and any logistical issues related to the hearing, and attempt to resolve or narrow outstanding issues, such as disputes relating to subpoenaed witnesses and documents. This conference is usually not recorded, but during the hearing the ALJ or the parties sometimes refer to discussions at the pre-hearing conference. You do not have to wait until the prehearing conference to meet with the other parties to discuss settling this case or any other issues.

II. DURING THE HEARING

The rules pertaining to the Board's hearing procedures are found at Sections 102.34 through 102.43 of the Board's Rules and Regulations. Please note in particular the following:

- **Witnesses and Evidence:** At the hearing, you will have the right to call, examine, and cross-examine witnesses and to introduce into the record documents and other evidence.
- **Exhibits:** Each exhibit offered in evidence must be provided in duplicate to the court reporter and a copy of each of each exhibit should be supplied to the ALJ and each party when the exhibit is offered

in evidence. If a copy of any exhibit is not available when the original is received, it will be the responsibility of the party offering such exhibit to submit the copy to the ALJ before the close of hearing. If a copy is not submitted, and the filing has not been waived by the ALJ, any ruling receiving the exhibit may be rescinded and the exhibit rejected.

- **Transcripts:** An official court reporter will make the only official transcript of the proceedings, and all citations in briefs and arguments must refer to the official record. The Board will not certify any transcript other than the official transcript for use in any court litigation. Proposed corrections of the transcript should be submitted, either by way of stipulation or motion, to the ALJ for approval. Everything said at the hearing while the hearing is in session will be recorded by the official reporter unless the ALJ specifically directs off-the-record discussion. If any party wishes to make off-the-record statements, a request to go off the record should be directed to the ALJ.
- **Oral Argument:** You are entitled, on request, to a reasonable period of time at the close of the hearing for oral argument, which shall be included in the transcript of the hearing. Alternatively, the ALJ may ask for oral argument if, at the close of the hearing, if it is believed that such argument would be beneficial to the understanding of the contentions of the parties and the factual issues involved.
- **Date for Filing Post-Hearing Brief:** Before the hearing closes, you may request to file a written brief or proposed findings and conclusions, or both, with the ALJ. The ALJ has the discretion to grant this request and to will set a deadline for filing, up to 35 days.

III. AFTER THE HEARING

The Rules pertaining to filing post-hearing briefs and the procedures after the ALJ issues a decision are found at Sections 102.42 through 102.48 of the Board's Rules and Regulations. Please note in particular the following:

- **Extension of Time for Filing Brief with the ALJ:** If you need an extension of time to file a post-hearing brief, you must follow Section 102.42 of the Board's Rules and Regulations, which requires you to file a request with the appropriate chief or associate chief administrative law judge, depending on where the trial occurred. You must immediately serve a copy of any request for an extension of time on all other parties and furnish proof of that service with your request. You are encouraged to seek the agreement of the other parties and state their positions in your request.
- **ALJ's Decision:** In due course, the ALJ will prepare and file with the Board a decision in this matter. Upon receipt of this decision, the Board will enter an order transferring the case to the Board and specifying when exceptions are due to the ALJ's decision. The Board will serve copies of that order and the ALJ's decision on all parties.
- **Exceptions to the ALJ's Decision:** The procedure to be followed with respect to appealing all or any part of the ALJ's decision (by filing exceptions with the Board), submitting briefs, requests for oral argument before the Board, and related matters is set forth in the Board's Rules and Regulations, particularly in Section 102.46 and following sections. A summary of the more pertinent of these provisions will be provided to the parties with the order transferring the matter to the Board.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

**IATSE LOCAL 52 MOTION PICTURE STUDIO
MECHANICS**

and

**Case 29-CB-274175 and
29-CB-288742**

(b) (6), (b) (7)(C) an Individual

and

**CMS PRODUCTIONS, M S S N G P E C E S [SIC], O
POSITIVE, LLC, PIRO, INC. AND SPARE PARTS,
INC. C/O MOVING PARTS, INC.**

**AFFIDAVIT OF SERVICE OF: ORDER CONSOLIDATION CASES, CONSOLIDATED
COMPLAINT AND NOTICE OF HEARING (with forms NLRB-4338 and NLRB-4668
attached)**

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on May 20, 2022, I served the above-entitled document(s) by **email**, as noted below, upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C)

IATSE Local 52 Motion
Picture Studio Mechanics
19-02 Steinway St
Astoria, NY 11105

Robert L. Sacks , Esq.
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
11th Floor
New York, NY 10105

Nicholas J. Johnson, Esq.
1700 Broadway
21st Floor
New York, NY 10019

M s s n g P e c e s [sic]
836 Manhattan Avenue
Brooklyn, NY 11222

(b) (6), (b) (7)(C)

[REDACTED]

Marc Grill , Executive Producer
O Positive, LLC
48 W 25th Street
New York, NY 10010

Tony Low, President
CMS Productions
4223 Glencoe Avenue
Marina Del Rey, CA 90292

Tim Piper , Founding Partner
Piro, Inc.
170 Varick Street
10th Floor, Suite 1002
New York, NY 10013

Matt Van Buren , Co-President
Spare Parts, Inc. c/o Moving Parts, Inc.
120 Bowen Loop*
Chandler, AZ 85226

Matt Van Buren , Co-President
Spare Parts, Inc. c/o Moving Parts, Inc.
120 Bowen Loop*
Chandler, AZ 85226

May 20, 2022

Date

FREDA DEVONSHIRE, Designated Agent of
NLRB

Name

/S/ FREDA DEVONSHIRE

Signature

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

MOTION PICTURE STUDIO MECHANICS,
LOCAL 52, INTERNATIONAL ALLIANCE OF
THEATRICAL STAGE EMPLOYEES

And

(b) (6), (b) (7)(C) an Individual

And

CMS PRODUCTIONS AND SMUGGLER, INC.

**Case Nos. 29-CB-274175 and
29-CB-288742**

ANSWER AND AFFIRMATIVE DEFENSES TO CONSOLIDATED COMPLAINT

Respondent Motion Picture Studio Mechanics, Local 52, International Alliance of Theatrical Stage Employees (“Respondent”), by their attorneys Spivak Lipton LLP, hereby answers the Consolidated Complaint as follows:

1. Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 1, except admits that the charge in Case No. 29-CB-274175 was delivered to Respondent.

2. Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 2, except admits that the charge in Case No. 29-CB-288742 was delivered to Respondent.

3. Respondent admits the allegations set forth in paragraph 3.

4. (a) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 4(a).

(b) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 4(b).

(c) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 4(c).

5. (a) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 5(a).

(b) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 5(b).

(c) Respondent is without knowledge or information sufficient to admit or deny the allegations set forth in paragraph 5(c).

6. Respondent denies the allegations set forth in paragraph 6 except admits that (b) (6), (b) (7)(C) was and is (b) (6), (b) (7)(C) that (b) (6), (b) (7)(C) was and is (b) (6), (b) (7)(C) and that as (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C) they are agents of Respondent.

7. Respondent denies the allegations set forth in paragraph 7.

(a) Respondent denies the allegations set forth in paragraph 7(a), but avers that Respondent does not prohibit its members from applying for work directly with employers or employers' hiring agents.

(b) Respondent denies the allegations set forth in paragraph 7(b).

(c) Respondent denies the allegations set forth in paragraph 7(c).

(d) Respondent denies the allegations set forth in paragraph 7(d).

(e) Respondent denies the allegations set forth in paragraph 7(e).

(f) Respondent denies the allegations set forth in paragraph 7(f).

8. Respondent denies the allegations set forth in paragraph 8, except admits that Respondent's (b) (6), (b) (7)(C) spoke at a general membership meeting of the Respondent's members on or about October 24, 2021.

9. Respondent denies the allegations set forth in paragraph 9.

10. Respondent denies the allegations set forth in paragraph 10.

11. Respondent denies the allegations set forth in paragraph 11.

12. Respondent denies the allegations set forth in paragraph 12.

13. Respondent denies that the General Counsel is entitled to the relief requested in paragraph 13.

(a) Respondent denies that the General Counsel is entitled to the relief requested in paragraph 13(a).

(b) Respondent denies that the General Counsel is entitled to the relief requested in paragraph 13(b).

(c) Respondent denies that the General Counsel is entitled to the relief requested in paragraph 13(c).

FIRST AFFIRMATIVE DEFENSE

The Consolidated Complaint fails to state a violation of the National Labor Relations Act.

SECOND AFFIRMATIVE DEFENSE

Some or all of the allegations in the Consolidated Complaint are time-barred pursuant to Section 10(b) of the Act.

Dated: New York, New York
June 2, 2022

Respectfully submitted,

/s/ Nicholas J. Johnson

Nicholas J. Johnson
SPIVAK LIPTON LLP
1040 6th Avenue, 20th Floor
New York, NY 10018
Ph: 212-765-2100
Fax: 212-765-8954
njohnson@spivaklipton.com

Counsel for Respondent

CERTIFICATE OF SERVICE

I, Nicholas J. Johnson, certify that on June 2, 2022, I caused a copy of Respondent's Answer and Affirmative Defenses to Consolidated Complaint to be e-filed with the National Labor Relations Board, Region 29 and served upon the following:

Via email:

Robert Sacks, Esq.
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas, 11th Floor
New York, NY 10105
RSacks@egsllp.com

(b) (6), (b) (7)(C)

[REDACTED]
[REDACTED]
[REDACTED]

Via first-class mail:

CMS Productions
4223 Glencoe Avenue
Marina Del Rey, CA 90292

Smuggler
38 W 21st Street, 12th Floor
New York, NY 10010

Dated: June 2, 2022
New York, New York

/s/ Nicholas J. Johnson

Nicholas J. Johnson

NATIONAL LABOR RELATIONS BOARD

NOTICE OF APPEARANCE

Individual	and
------------	-----

CASE 29-CB-274175

IATSE Local 52 Motion Picture Studio
Mechanics

☒ REGIONAL DIRECTOR

☐ EXECUTIVE SECRETARY
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

☐ GENERAL COUNSEL
NATIONAL LABOR RELATIONS BOARD
Washington, DC 20570

THE UNDERSIGNED HEREBY ENTERS APPEARANCE AS REPRESENTATIVE OF _____

(b) (6), (b) (7)(C)

IN THE ABOVE-CAPTIONED MATTER.

CHECK THE APPROPRIATE BOX(ES) BELOW:

☒ REPRESENTATIVE IS AN ATTORNEY

☒ IF REPRESENTATIVE IS AN ATTORNEY, IN ORDER TO ENSURE THAT THE PARTY MAY RECEIVE COPIES OF CERTAIN DOCUMENTS OR CORRESPONDENCE FROM THE AGENCY IN ADDITION TO THOSE DESCRIBED BELOW, THIS BOX MUST BE CHECKED. IF THIS BOX IS NOT CHECKED, THE PARTY WILL RECEIVE ONLY COPIES OF CERTAIN DOCUMENTS SUCH AS CHARGES, PETITIONS AND FORMAL DOCUMENTS AS DESCRIBED IN SEC. 11842.3 OF THE CASEHANDLING MANUAL.

(REPRESENTATIVE INFORMATION)

NAME: Heidi Schneider	
MAILING ADDRESS: 8001 Braddock Rd, Ste 600	
Springfield VA	
E-MAIL ADDRESS: hes@nrtw.org	
OFFICE TELEPHONE NUMBER: 7033218510	
CELL PHONE NUMBER: 7037703335	FAX: 7033219319
SIGNATURE: HES	
DATE: Thursday, June 9, 2022 1:46 PM Eastern Standard Time	

¹ IF CASE IS PENDING IN WASHINGTON AND NOTICE OF APPEARANCE IS SENT TO THE GENERAL COUNSEL OR THE EXECUTIVE SECRETARY. A COPY SHOULD BE SENT TO THE REGIONAL DIRECTOR OF THE REGION IN WHICH THE CASE WAS FILED SO THAT THOSE RECORDS WILL REFLECT THE APPEARANCE.

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

**IATSE LOCAL 52 MOTION PICTURE STUDIO
MECHANICS**

and

**Case Nos. 29-CB-274175; 29-CB-
288742**

(b) (6), (b) (7)(C) an Individual

and

**CMS PRODUCTIONS, MISSING PIECES [SIC], O
POSITIVE, LLC, PIRO, INC. AND SPARE PARTS,
INC. C/O MOVING PARTS, INC.**

ORDER RESCHEDULING HEARING

IT IS HEREBY ORDERED that the hearing in the above-entitled matter is rescheduled from September 7, 2022, at 10:00 AM to 10:00 AM on **November 8, 2022**, via video conference or in-person at a hearing room located at Region 29 of the NLRB, Two MetroTech Center, 5th Floor, Brooklyn, New York - the manner and location of the hearing to be determined and Ordered by the Administrative Law Judge. The hearing will continue on consecutive days until concluded.

Dated: July 21, 2022

/s/ Nancy Reibstein

NANCY REIBSTEIN
ACTING REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS BOARD
REGION 29
Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 29**

**IATSE LOCAL 52 MOTION PICTURE STUDIO
MECHANICS**

and

**Cases 29-CB-274175; 29-CB-
288742**

(b) (6), (b) (7)(C) an Individual

and

**CMS PRODUCTIONS, M S S N G P E C E S [SIC], O
POSITIVE, LLC, PIRO, INC. AND SPARE PARTS,
INC. C/O MOVING PARTS, INC.**

AFFIDAVIT OF SERVICE OF ORDER RESCHEDULING HEARING

I, the undersigned employee of the National Labor Relations Board, being duly sworn, say that on July 21, 2022, I served the above-entitled document(s) by **e-issuance, regular mail** upon the following persons, addressed to them at the following addresses:

(b) (6), (b) (7)(C) ialocal52.org
(b) (6), (b) (7)(C)
IASTE Local 52 Motion Picture Studio
Mechanics
19-02 Steinway St
Astoria, NY 11105

M s s n g P e c e s [sic]
836 Manhattan Avenue
Brooklyn, NY 11222

njohnson@spivaklipton.com
Nicholas J. Johnson, Esq.
1700 Broadway
21st Floor
New York, NY 10019

marc@o-pos.com
Marc Grill, Executive Producer
O Positive, LLC
48 W 25th Street
New York, NY 10010

(b) (6), (b) (7)(C)

vanburensmail@yahoo.com
Matt Van Buren, Co-President
Spare Parts, Inc. c/o Moving Parts, Inc.
17782 Preston Road
Dallas, TX 75252

tony@cmsproductions.com
Tony Low, President
CMS Productions
4223 Glencoe Avenue
Marina Del Rey, CA 90292

rsacks@egsllp.com

Robert L. Sacks, Esq.
Ellenoff Grossman & Schole LLP
1345 Avenue of the Americas
15th Floor
New York, NY 10105

tim@wearepiro.com

Tim Piper, Founding Partner
Piro, Inc.
170 Varick Street
10th Floor, Suite 1002
New York, NY 10013

July 21, 2022

Date

FREDA DEVONSHIRE, Designated
Agent of NLRB

Name

/S/ FREDA DEVONSHIRE

Signature

UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
SETTLEMENT AGREEMENT

IN THE MATTER OF

IATSE Local 52 Motion Picture Studio Mechanics

**Case Nos. 29-CB-274175
and 29-CB-288742**

Subject to the approval of the Regional Director for the National Labor Relations Board, IATSE Local 52 Motion Picture Studio Mechanics (“the Charged Party”) and (b) (6), (b) (7)(C) An Individual (“the Charging Party”) **HEREBY AGREE TO SETTLE THE ABOVE MATTER AS FOLLOWS:**

SIGNING AND POSTING OF NOTICE — After the Regional Director has approved this Agreement, the Regional Office will send copies of the attached approved Notice to the Charged Party in English and in additional languages if the Regional Director decides it is appropriate to do so.

After receiving the Notice, a responsible official of the Charged Party will then sign and date the Notice and immediately post it in the public “Join Us” section of the Charged Party’s website and in the private “Members Area” section of the Charged Party’s website. The Charged Party will keep the Notice posted for 60 consecutive days after the initial posting. The Charged Party will send a link to the locations of the Notice posting to the Compliance Officer for Region 29.

NOTICE READING – After approval of this agreement by the Regional Director, a responsible official of the Charged Party will read the Notice to Members at the next regularly scheduled General Membership Meeting of the Charged Party’s membership, but not within 14 days of the settlement being approved, at which a Board Agent will be present to observe the Notice Reading portion of the meeting only. The Charged Party will inform the Regional Director of the date, time, and place of the meeting. If the meeting occurs over video conference, the Charged Party will send the link to the videoconference to the Compliance Officer and to the Board Agent who will attend the meeting.

TEXTING OR EMAILING OF NOTICE TO MEMBERS – A responsible official of the Charged Party will email the Notice to all members of the Charged Party who were members at any time since January 1, 2021, for whom the Charged Party has an email address. The Charged Party will send a text message of the Notice to all members whom the Charged Party does not have an email address. The Charged Party will forward a copy of all emails to the Compliance Officer for Region 29. The Charged Party will send a list of all members’ names, email addresses, and phone numbers to the Compliance Officer for Region 29.

TEXTING OR EMAILING OF NOTICE TO NONMEMBERS – A responsible official of the Charged Party will email all individuals who worked under the Charged Party’s contracts as “permits,” “applicants,” and/or “over hires” since September 15, 2020 for whom the Charged Party has an email address. The Charged Party will send a text message of the Notice to all nonmembers whom the Charged Party has a phone number but does not have an email address. The Charged Party will forward a copy of all emails to the Compliance Officer for Region 29. The Charged Party will send a list of all nonmembers’ names, email addresses, and phone numbers to the Compliance Officer for Region 29.

MAILING OR EMAILING OF NOTICE TO PRODUCTION COMPANIES – A responsible official of the Charged Party will email the Notice to all production companies who have employed employees covered by any of the Charged Party’s collective bargaining agreements since January 1, 2021, for whom the Charged Party has an email address. The Charged Party will forward a copy of all emails to the Compliance Officer for Region 29. The Charged Party will mail, at its own expense, a copy of the Notice to all production companies for whom it

Initials: _____

does not have an email address. The Charged Party will provide the Regional Director written confirmation of the date of mailing and a list of names and addresses of production companies to whom the Notices were mailed.

PUBLISHING OF NOTICE IN UNION NEWSLETTERS – The Charged Party will publish a copy of the Notice in a Union newsletter to be published within ninety days following the Regional Director’s approval of this agreement. The Charged Party will send a copy of the newsletter to the Compliance Officer for Region 29.

VIDEOCONFERENCE TRAINING FOR UNION OFFICIALS, BUSINESS AGENTS AND MEMBERS

– The parties and the Regional Director agree that Charged Party officials and business agents will receive training on employee rights, hiring hall procedures, and the rights of nonmembers, to be conducted by an Agent of the National Labor Relations Board on a date, time and place in January 2023 to be decided by the Regional Director in consultation with the parties. The Charged Party will require all members of its Executive Board and all business agents to attend the training. The Union will invite all of its members, including department heads and “seconds,” to attend.

The Agent of the National Labor Relations Board will determine the date, time, and place of the training(s) in consultation with the Charged Party. Any disputes regarding the date, time, and place of the training(s) shall be resolved by the Regional Director. The training(s) will be conducted by videoconference and will be recorded. The Charged Party will email the recording to all members who did not attend the training. The Charged Party will forward all emails to the Compliance Officer of Region 29.

COMPLIANCE WITH NOTICE — The Charged Party will comply with all the terms and provisions of said Notice.

SCOPE OF THE AGREEMENT — This Agreement settles only the allegations in the above-captioned case(s), including all allegations covered by the attached Notice to Employees made part of this agreement, and does not settle any other case(s) or matters. It does not prevent persons from filing charges, the General Counsel from prosecuting complaints, or the Board and the courts from finding violations with respect to matters that happened before this Agreement was approved regardless of whether General Counsel knew of those matters or could have easily found them out. The General Counsel reserves the right to use the evidence obtained in the investigation and prosecution of the above-captioned case(s) for any relevant purpose in the litigation of this or any other case(s), and a judge, the Board and the courts may make findings of fact and/or conclusions of law with respect to said evidence.

PARTIES TO THE AGREEMENT — If the Charging Party fails or refuses to become a party to this Agreement and the Regional Director determines that it will promote the policies of the National Labor Relations Act, the Regional Director may approve the settlement agreement and decline to issue or reissue a Complaint in this matter. If that occurs, this Agreement shall be between the Charged Party and the undersigned Regional Director. In that case, a Charging Party may request review of the decision to approve the Agreement. If the General Counsel does not sustain the Regional Director's approval, this Agreement shall be null and void.

AUTHORIZATION TO PROVIDE COMPLIANCE INFORMATION AND NOTICES DIRECTLY TO CHARGED PARTY — Counsel for the Charged Party authorizes the Regional Office to forward the cover letter describing the general expectations and instructions to achieve compliance, a conformed settlement, original notices and a certification of posting directly to the Charged Party. If such authorization is granted, Counsel will be simultaneously served with a courtesy copy of these documents.

Yes N.J. No
 Initials Initials

Initials: _____

The Charged Party agrees that in case of non-compliance with any of the terms of this Settlement Agreement by the Charged Party, and after 14 days notice from the Regional Director of the National Labor Relations Board of such non-compliance without remedy by the Charged Party, the Regional Director will issue a complaint alleging that the Respondent violated the Act as alleged in Case Nos. 29-CB-274175 and 29-CB-288742. Thereafter, the General Counsel may file a motion for summary judgment with the Board on the allegations of the complaint. The Charged Party understands and agrees that the allegations of the aforementioned will be deemed admitted and its Answer to such complaint will be considered withdrawn. The only issue that may be raised before the Board is whether the Charged Party defaulted on the terms of this Settlement Agreement. The Board may then, without necessity of trial or any other proceeding, find all allegations of the complaint to be true and make findings of fact and conclusions of law consistent with those allegations adverse to the Charged Party, on all issues raised by the pleadings. The Board may then issue an order providing a full remedy for the violations found as is customary to remedy such violations. The parties further agree that the U.S. Court of Appeals Judgment may be entered enforcing the Board order ex parte.

NOTIFICATION OF COMPLIANCE — Each party to this Agreement will notify the Regional Director in writing what steps the Charged Party has taken to comply with the Agreement. This notification shall be given within 5 days, and again after 60 days, from the date of the approval of this Agreement. If the Charging Party does not enter into this Agreement, initial notice shall be given within 5 days after notification from the Regional Director that the Charging Party did not request review or that the General Counsel sustained the Regional Director's approval of this agreement. No further action shall be taken in the above captioned case(s) provided that the Charged Party complies with the terms and conditions of this Settlement Agreement and Notice.

Charged Party IASTE Local 52 Motion Picture Studio Mechanics		Charging Party (b) (6), (b) (7)(C) An Individual	
By:	Name and Title	Date	
/s/ Nicholas Johnson, Counsel		10/20/22	
<hr/> Print Name and Title below		<hr/> Print Name and Title below	
Recommended By:		Approved By:	
/s/ Brent Childerhose	Date	/s/ Teresa Poor	Date
	10/21/22		10/22/21
Brent Childerhose Attorney		Acting Regional Director, Region 29	

Initials: _____

(To be printed and posted on official Board notice form)

THE NATIONAL LABOR RELATIONS ACT GIVES YOU THE RIGHT TO:

- Form, join, or assist a union;
- Choose a representative to bargain with us on your behalf;
- Act together with other employees for your benefit and protection;
- Choose not to engage in any of these protected activities.

WE, WILL NOT do anything to interfere with or prevent you from exercising the above rights.

WE WILL NOT require nonmember “permit” or “applicant” employees (“nonmembers”) to obtain work through the Union. **Nonmembers do not need to obtain the Union’s approval before applying for union-represented positions or accepting offers of employment.**

WE WILL NOT threaten union members with internal union discipline if they hire nonmembers without first obtaining approval from the Union.

WE WILL allow Union member department heads to staff their crews with nonmembers without first obtaining approval from the Union hall.

WE WILL NOT interfere with employers and their agents hiring nonmembers without first obtaining approval from the Union. **WE WILL NOT** require employers to allow members to bump nonmembers off of productions because of the nonmembers’ lack of membership with the Union. **Employers and their agents do not need to obtain the Union’s approval before hiring a nonmember.**

If you have any questions related to this Notice or your rights under the National Labor Relations Act, you may contact National Labor Relations Board Region 29 at 718-330-7713. More information about the NLRB is available at www.nlrb.gov.

If you believe that the Union has discriminated against you based on your race, color, national origin, sex, religion, age, marital status, source of income, or disability, you may contact the New York Attorney General’s Office, Civil Rights Bureau at 212-416-8250. More information about the New York Attorney General’s Office is available at www.ag.ny.gov.

IASTE Local 52 Motion Picture Studio Mechanics

(Union)

Dated: _____

By: _____
(Representative) (Title)

Initials: _____

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. We conduct secret-ballot elections to determine whether employees want union representation and we investigate and remedy unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below or you may call the Board's toll-free number 1-844-762-NLRB (1-844-762-6572). Hearing impaired callers who wish to speak to an Agency representative should contact the Federal Relay Service (link is external) by visiting its website at <https://www.federalrelay.us/tty> (link is external), calling one of its toll free numbers and asking its Communications Assistant to call our toll free number at 1-844-762-NLRB.

Two Metro Tech Center
Suite 5100
Brooklyn, NY 11201-3838

Telephone: (718)330-7713
Hours of Operation: 8:15 a.m. to 4:45 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

This notice must remain posted for 60 consecutive days from the date of posting and must not be altered, defaced or covered by any other material. Any questions concerning this notice or compliance with its provisions may be directed to the Centralized Compliance Unit at complianceunit@nrlb.gov.

Initials: _____